

# Notice of Allowability

Application No.

10/019,236

Examiner

Isis Ghali

Applicant(s)

BIRD ET AL.

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/26/2005.
2. ☒ The allowed claim(s) is/are 1,4-8,11,12,15,16,23-26,28-30,32-36,39-45,51-59,61-72,75,77 and 78.
3. ☒ The drawings filed on 28 December 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 10/26/2005.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Thomas Cawley on October 26, 2005.

The application has been amended as follows:

- Cancel claims 46-49, 60, 73, 74, and 76.
- In claim 8, second line, after the word "SCFA", delete "is".
- In claim 12, line 3, after the word "eicosapentaenoic acid" and before the word "docosahexaenoic", insert the operator ---- and ----.
- In claim 29, line 1, at the end of the line, change the dependency of the claim from "23" to ---- 28 ----.
- In claim 32, line 2, after the phrase "wherein the" and before the word "degree" insert the phrase ---- the carbohydrate has a ----.
- In claim 33, line 2, after the phrase "wherein the" and before the word "degree" insert the phrase ---- the carbohydrate has a ----.
- In claim 39, line 2, after the word "fatty" and before the word "delivery", insert the word ---- acid ----.
- In claim 44, line 1, change the dependency of the claim from "39" to --- 41----.

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- In claim 45, line 1, change the dependency of the claim from "39" to --- 41----.
- In claim 62, line 8, replace the word "including" after the word "group" and before the word "guar" by the phrase ---- consisting of -----.
- In claim 71, line 1, change the dependency of the claim from "39" to --- 70----.
- In claim 72, line 1, change the dependency of the claim from "39" to --- 70----.
- In claim 75, line 2, replace the phrase "list including" after the word "the" and before the word "diarrhea" by the phrase ---- group consisting of -----.
- In claim 78, line 1, change the dependency of the claim from "42" to --- 77----.

***Allowable Subject Matter***

2. The following is an examiner's statement of reasons for allowance: the closest prior art does not teach or suggest formulation for nasogastric delivery comprising fatty acid covalently bonded to a carbohydrate carrier to deliver fatty acids in the colon, wherein the carbohydrate carrier is present in an amount of 0.25% to 5% w/v of the formulation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis Ghali whose telephone number is (571) 272-0595.

The examiner can normally be reached on Monday-Thursday, 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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